



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Arthur B. Knickerbocker
The Adjutant General
Adjutant General's Department
Austin, Texas

Dear Sir:

Opinion No. O-5972
Re: Vacations for employees
of the Adjutant General's
Department

Your letter of April 15, 1944, requesting the opinion of this department on the questions stated therein is as follows:

"In order that this Department may write definite regulations covering vacations for its employees, the Attorney General's opinion is requested on the following questions.

- "1. How long must an employee be employed by the State of Texas before being entitled to a vacation?
- "2. When do vacations begin?
- "3. Must vacations be completed in the fiscal year for which they are given, or can they be carried over into the following fiscal year?
- "4. Is a vacation split into fractions of one day per month? If not, when is an employee entitled to a full two-weeks vacation?
- "5. Can vacations be accumulated from one year to the next? For example; Ten days vacation taken last year, and fourteen days taken this year.
- "6. If this Department has certain employees who have been with it for some time, and

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have rendered faithful service, will these employees, upon resigning from State Service, be entitled to vacations?

"7. Will employees, upon being requested to resign, be entitled to vacations?"

The General Rider appended to Senate Bill No. 332, Acts of the 48th Legislature, Regular Session, 1943, (the Current Biennial Appropriation Act) provides:

". . . .

"(9) Vacation Allowance. Department employees shall, without deduction in salary, receive not exceeding twelve days' vacation, exclusive of Sundays or legal holidays, on which State offices are closed, for each State fiscal year, such vacation period to be mutually agreed upon by the head of each department with his employees, provided, that employees belonging to the Texas National Guard may have their vacation at the time of the meeting of the annual encampment. Provided, that no employee for whom a salary is hereby appropriated, shall receive compensation while on vacation unless he or she has been an employee of the department for not less than six calendar months preceding the vacation period.

". . . ."

In view of the foregoing provision of the Departmental Appropriation Bill, it is our opinion that before an employee of your department is legally entitled to a vacation, he or she must have been an employee of the department for not less than six calendar months preceding the vacation period.

In answer to your second question, you are advised, that it is our opinion that vacations may begin at any time after the employee has been an employee of the department for not less than six calendar months preceding the vacation period.

In reply to your third question, you are advised that vacations must be completed in the fiscal year for which they are given and can not be carried over into the following fiscal year.

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Answering your fourth question, you are advised that a vacation is not split into fractions of one day per month, but as heretofore stated, when an employee has been employed by the department for not less than six calendar months preceding the vacation period, such employee is entitled to a full two weeks vacation, such vacation period to be mutually agreed upon by the head of the department and the employee.

Your fifth question is respectfully answered in the negative. Vacations can not be accumulated from one year to the next.

In answer to your sixth and seventh questions, you are advised that after the employment of the employee is terminated, such employee is not entitled to paid vacations. Stated another way, the above quoted provision of the Departmental Appropriation Bill would seem to contemplate that one must be a departmental employee during the vacation period in order to receive pay for the vacation period. In support of this statement, we direct your attention to our Opinion No. 0-2814, a copy of which is enclosed for your convenience.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams
Assistant

AN/pw

enclosure

clerk *A. B. Blackburn*
SEP 22 1914

